



Wanted 1/30
State of Wisconsin
2013 - 2014 LEGISLATURE



Rm
nun

LRB-1042/8
RNK:jld:jm

due Thurs.
2013 BILL

D-Note

In
1/26

✓

regen cat.

- 1 AN ACT *to renumber and amend* 30.2022 (1); *to amend* 30.2022 (2), 30.2022
2 (3), 30.2022 (4) and 30.2022 (6); and *to create* 30.2022 (1g) and 283.33 (4m) of
3 the statutes; **relating to:** activities affecting waters of this state carried out
4 under the direction of the Department of Transportation. ✓

Analysis by the Legislative Reference Bureau

Under current law, the Department of Natural Resources (DNR) regulates certain activities that occur in or near navigable waters and also administers various environmental laws. In order for a person to conduct an activity in or near a navigable water or to discharge certain pollutants into the air or waters of this state, the person may be required to obtain one or more permits from DNR. Among the environmental permits that DNR issues are storm water discharge permits.

Current law exempts the Department of Transportation (DOT) from obtaining certain navigable waters permits and certain environmental permits affecting waters of this state including storm water discharge permits. The exemptions apply to activities affecting waters of this state that are carried out under DOT's direction and supervision, such as the construction of a highway or bridge (transportation activity), and are subject to certain conditions. Under these conditions, DOT must accomplish the transportation activity in accordance with interdepartmental liaison procedures established by DOT and DNR for the purpose of minimizing the adverse environmental impact of the activity. DOT and DNR must also exchange information and cooperate in planning and carrying out DOT activities in order to alleviate potential detrimental encroachment on the waters of the state.

BILL

(coverage under a transportation general
general) ✓(transportation general
permit)

✓ This bill requires DNR to issue a permit that authorizes DOT to discharge storm water from the site of a transportation activity. The bill provides that, instead of being exempt from any requirement to obtain a storm water discharge permit, DOT must obtain ~~the~~ permit required to be issued by DNR under this bill. The bill specifies that a transportation activity covered by a storm water permit is subject to the interdepartmental liaison procedures that apply under current law to DOT transportation activities. ✓

INS. Analysis For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

, as affected by
2013 Wisconsin Act 80,

1 SECTION 1. 30.2022 (1) of the statutes is renumbered 30.2022 (1m) and
2 amended to read:

3 30.2022 (1m) Activities Transportation activities affecting waters of the state,
4 as defined in s. 281.01 (18), that are ~~carried out under the direction and supervision~~
5 ~~of the department of transportation in connection with highway, bridge, or other~~
6 ~~transportation project design, location, construction, reconstruction, maintenance,~~
7 ~~and repair~~ are not subject to the prohibitions or permit or approval requirements
8 specified under ~~s. ss.~~ 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20, 59.692,
9 61.351, 62.231, ~~or~~ 87.30, 283.01 to 283.31, or 283.37 to 283.95 or chs. 281 to, 285, or
10 289 to 299. However, at the earliest practical time prior to the commencement of
11 these transportation activities, the department of transportation shall notify the
12 department of the location, nature, and extent of the proposed work that may affect
13 the waters of the state.

14 SECTION 2. 30.2022 (1g) of the statutes is created to read:

15 30.2022 (1g) In this section, "transportation activity" means an activity carried
16 out under the direction and supervision of the department of transportation in

BILL

1 connection with highway, bridge, or other transportation project design, location,
2 construction, reconstruction, maintenance, or repair.

3 **SECTION 3.** 30.2022 (2) of the statutes is amended to read:

4 30.2022 (2) The ~~exemption~~ ^{exemptions} under sub. (1) ~~(1m)~~ ^{(1m) or (1p)} ~~does~~ ^{do} not apply unless the

5 transportation activity is accomplished in accordance with interdepartmental
6 liaison procedures established by the department and the department of
7 transportation for the purpose of minimizing the adverse environmental impact, if
8 any, of the transportation activity. If the transportation activity affects a wetland,
9 as defined in s. 23.32 (1), the department of transportation shall conduct any
10 required mitigation either by complying with the interdepartmental liaison
11 procedures and any applicable interagency agreement on mitigation banks that is
12 approved by the department of natural resources or by using any of the methods
13 specified in s. 281.36 (3r) (a) 1. to 3.

14 **SECTION 4.** 30.2022 (3) of the statutes is amended to read:

15 30.2022 (3) If the department determines that there is reasonable cause to
16 believe that an a transportation activity being carried out under this section is not
17 in compliance with the environmental protection requirements developed through
18 interdepartmental liaison procedures, it shall notify the department of
19 transportation. If the secretary and the secretary of transportation are unable to
20 agree upon the methods or time schedules to be used to correct the alleged
21 noncompliance, the secretary, notwithstanding the exemption provided in this
22 section, may proceed with enforcement actions as the secretary deems appropriate.

23 **SECTION 5.** 30.2022 (4) of the statutes is amended to read:

24 30.2022 (4) The department of transportation and the department shall
25 exchange information and cooperate in the planning and carrying out of such

INS.
3-2

BILL

SECTION 5

1 transportation activities in order to alleviate, to the extent practical under the
2 circumstances, any potential detrimental encroachment on the waters of the state.

3 **SECTION 6.** 30.2022 (6) of the statutes is amended to read:

4 30.2022 (6) This section does not apply to transportation activities in the Lower
5 Wisconsin State Riverway, as defined in s. 30.40 (15).

6 **SECTION 7.** 283.33 (4m) of the statutes is created to read:

7 283.33 (4m) TRANSPORTATION ACTIVITIES. (a) In this subsection, "transportation
8 activity" has the meaning given in s. 30.2022 (1g).

9 (b) The department of natural resources shall issue a permit that authorizes
10 the department of transportation to discharge storm water from the site of a
11 transportation activity. ~~(c) The department of transportation may not discharge storm~~
12 ~~water from the site of a transportation activity unless it has been issued a permit~~
13 ~~under this subsection.~~

14 ~~(c) A permit issued under this section shall incorporate the interdepartmental~~
15 ~~liaison procedures established under s. 30.2022 (2) for the purpose of minimizing the~~
16 ~~adverse environmental impact, if any, of the activity.~~

17 **SECTION 8. Nonstatutory provisions.**

18 (1) The department of natural resources shall complete the activities that it
19 determines are necessary to implement section 283.33 (4m) of the statutes, as
20 created by this act, no later than June 30, 2016.

21 (2) If the department of natural resources completes the activities that it
22 determines are necessary to implement section 283.33 (4m) of the statutes, as
23 created by this act, before March 1, 2016, it shall notify the legislative reference
24 bureau of that completion. ~~issues a permit under this section~~ The legislative reference bureau shall publish the notice
25 in the Wisconsin Administrative Register with a statement of the date on which

BILL

1 section 283.33 (4m) of the statutes takes effect, as determined under SECTION 9 (1)
2 of this act.

3 **SECTION 9. Effective date.**

4 (1) This act takes effect on the first day of the 2nd month beginning after the
5 publication of the notice under SECTION 8 (2) of this act or July 1, 2016, whichever is
6 earlier.

7 (END)

d-note
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INS.
5-6

“RESEARCH APPENDIX”

... Drafting History Reproduction Request Form ...





 **DRAFTING ATTORNEYS: PLEASE COMPLETE THIS FORM AND GIVE TO MIKE BARMAN**


(Request Made By: RNK) (Date: 02/14/2014)

Note:


***BOTH DRAFTS SHOULD HAVE THE
SAME “REQUESTOR”***


(exception: companion bills)

☐  Please transfer the drafting file for
2011 LRB _____ (For: Rep. / Sen. _____)
to the drafting file for
2013 LRB _____ (For: Rep. / Sen. _____)

-----OR-----

☒  Please copy the drafting file for
2013 LRB -1045 / 1 (include the version) (For: Rep. / Sen. DNR)
and place it in the drafting file for
2013 LRB -1042 (For: Rep. / Sen. DNR)

 Are These “Companion Bills” ?? ... Yes ☐ **No** ☒

If yes, who in the initial requestor’s office authorized the copy/transfer of the drafting history
 (“guts”) from the original file: _____

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1042/4ins.

RNK:.....

INSERT ANALYSIS

* *no if* The bill requires [✓]DNR to issue a transportation general permit on or before June 30, 2016, [✓]but DOT is not required to obtain coverage under that permit until DNR issues a transportation general permit as required under the bill. [✓]

INSERT 2-13

1 30.2022 (1m) ~~Activities~~ Transportation activities affecting waters of the state,
2 as defined in s. 281.01 (18), ~~that are carried out under the direction and supervision~~
3 ~~of the department of transportation in connection with highway, bridge, or other~~
4 ~~transportation project design, location, construction, reconstruction, maintenance,~~
5 ~~and repair~~ are not subject to the prohibitions or permit or approval requirements
6 specified under ^{plain} ~~s.~~ ^{ss.} 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20, 59.692,
7 61.351, 61.353, 62.231, 62.233, or 87.30 or [✓]chs. 281 to 285 or 289 to 299. However,
8 at the earliest practical time prior to the commencement of these [✓]transportation
9 activities, the department of transportation [✓]shall notify the department of the
10 location, nature, and extent of the proposed work that may affect the waters of the
11 state. [✓]This subsection does not apply beginning on the date on which the department
12 of natural resources issues a general permit under s. 283.33 (4m) (b) 1. [✓]

History: 2003 a. 118 ss. 48 to 53, 129; 2005 a. 347; 2011 a. 118; 2013 a. 80.

INSERT 3-2

13 **SECTION 1.** 30.2022 (1p) [✓]of the statutes is created to read:
14 30.2022 (1p) Transportation activities affecting waters of the state, as defined
15 in s. 281.01 (18), [✓]are not subject to the prohibitions or permit or approval
16 requirements specified under ^{ss.} ~~s.~~ 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20,

↓

or under (1) 59.692, 61.351, 61.353, 62.231, 62.233, or 87.30 prior or under
(2) ch. 285 or chs. 289 to 299. However, at the earliest practical time prior to the
3 commencement of these transportation activities, the department of transportation
4 shall notify the department of the location, nature, and extent of the proposed work
5 that may affect the waters of the state. This subsection applies beginning on the date
6 on which the department of natural resources issues a general permit under s. 283.33
7 (4m) (b) 1.

INSERT 5-6

(8) (b) 1. The department of natural resources shall issue a general permit under this section on or
(9) before June 30, 2016, that authorizes the department of transportation to discharge
10 storm water from the site of a transportation activity. A general permit issued under
11 this paragraph is subject to the requirements for general permits issued under s.
12 283.35.

13 2. The department of natural resources shall notify the legislative reference
14 bureau when it issues a general permit under subd. 1. The legislative reference
15 bureau shall publish the notice in the Wisconsin Administrative Register.

16 (c) Beginning on the date on which the department of natural resources issues
17 a general permit under par. (b) 1., the department of transportation may not
18 discharge storm water from the site of a transportation activity unless it is covered
19 by a general permit issued under par. (b) 1.

20 (d) A permit issued under this section shall incorporate the interdepartmental
21 liaison procedures established under s. 30.2022 (2) and the requirements specified
22 in rules promulgated under ss. 30.2022, 283.33, and 283.35.

(end ins)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1042/4dn

RNK:.....

date

JLd

* Wisconsin
As requested, this version of the draft requires the Department of Natural Resources (DNR) to issue a general permit authorizing the Department of Transportation (DOT) to discharge storm water from the site of a transportation activity (transportation general permit). The draft requires DNR to issue a transportation general permit on or before June 30, 2016, but DOT is not required to obtain coverage under that permit until the permit is issued, regardless of the date of issuance. That is, the effective date of the requirement cannot be determined because it is contingent on an act occurring in the future. Although the draft requires DNR to give notice to the Legislative Reference Bureau (LRB) of the issuance of the permit and requires the LRB to publish the notice in the Administrative Register, the date on which the permit requirement becomes effective will not be clear in the statutes. *

* As we have discussed previously, the use of an indeterminate effective date in a draft is discouraged by the LRB. If the effective date of a statute is contingent upon the occurrence of a future event, and the date on which the event occurred is unknown or if the event never occurs, the users of the statutes cannot know if a statute is in effect or when it may have become effective. Furthermore, amending a statute with an indeterminate effective date causes significant drafting problems.

For all of these reasons, if this proposal is enacted and DNR issues the general permit required to be issued under this draft, I recommend that upon issuance of the general permit DNR consider proposing legislation to remove the language in the statutes that will no longer be in effect.

Please let me know if you have any questions about this draft. ✓

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1042/4dn
RNK:jld:jf

January 29, 2014

As requested, this version of the draft requires the Department of Natural Resources (DNR) to issue a general permit authorizing the Department of Transportation (DOT) to discharge storm water from the site of a transportation activity (transportation general permit). The draft requires DNR to issue a transportation general permit on or before June 30, 2016, but DOT is not required to obtain coverage under that permit until the permit is issued, regardless of the date of issuance. That is, the effective date of the requirement cannot be determined because it is contingent on an act occurring in the future. Although the draft requires DNR to give notice to the Legislative Reference Bureau (LRB) of the issuance of the permit and requires the LRB to publish the notice in the Wisconsin Administrative Register, the date on which the permit requirement becomes effective will not be clear in the statutes.

As we have discussed previously, the use of an indeterminate effective date in a draft is discouraged by the LRB. If the effective date of a statute is contingent upon the occurrence of a future event, and the date on which the event occurred is unknown or if the event never occurs, the users of the statutes cannot know if a statute is in effect or when it became effective. Furthermore, amending a statute with an indeterminate effective date causes significant drafting problems.

For all of these reasons, if this proposal is enacted and DNR issues the general permit required to be issued under this draft, I recommend that upon issuance of the general permit DNR consider proposing legislation to remove the language in the statutes that will no longer be in effect.

Please let me know if you have any questions about this draft.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

Kite, Robin

From: Bruhn, Michael L - DNR <Michael.Bruhn@wisconsin.gov>
Sent: Friday, February 14, 2014 1:29 PM
To: Kite, Robin
Subject: RE: LRBs 1045 and 1042

Perfect!! Thank you!

Michael Bruhn
Legislative Liaison
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-5375
(✉) e-mail: michael.bruhn@wisconsin.gov
Website: dnr.wi.gov
Find us on Facebook: www.facebook.com/WIDNR

From: Kite, Robin [<mailto:Robin.Kite@legis.wisconsin.gov>]
Sent: Friday, February 14, 2014 1:27 PM
To: Bruhn, Michael L - DNR
Subject: RE: LRBs 1045 and 1042

Mike:

I am inclined to incorporate LRB-1045/1 into LRB-1042/4 rather than combine these drafts under a new LRB number. In other words, the combined draft will be LRB-1042/5. Is that okay with you?

Robin

From: Bruhn, Michael L - DNR [<mailto:Michael.Bruhn@wisconsin.gov>]
Sent: Friday, February 14, 2014 1:04 PM
To: Kite, Robin
Subject: LRBs 1045 and 1042

Hi Robin,

I believe we are finally done with these drafts (as I have not heard any additional concerns from DOT). Can you put LRBs 1045 and 1042 into one draft, and have it jacketed for introduction?

Thank you!!!!

Michael Bruhn
Legislative Liaison
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-5375
(✉) e-mail: michael.bruhn@wisconsin.gov
Website: dnr.wi.gov
Find us on Facebook: www.facebook.com/WIDNR



soon

State of Wisconsin
2013 - 2014 LEGISLATURE



pm
not run
5
LRB-1042/4
RNK:jld:jf

2013 BILL

In
2/14

regen cat.

X

1 AN ACT *to renumber and amend* 30.2022 (1); *to amend* 30.2022 (2), 30.2022
2 (3), 30.2022 (4) and 30.2022 (6); and *to create* 30.2022 (1g), 30.2022 (1p) and
3 283.33 (4m) of the statutes; **relating to:** activities affecting waters of this state
4 carried out under the direction of the Department of Transportation. *Ins. relating* ✓

Analysis by the Legislative Reference Bureau

Under current law, the Department of Natural Resources (DNR) regulates certain activities that occur in or near navigable waters and also administers various environmental laws. In order for a person to conduct an activity in or near a navigable water or to discharge certain pollutants into the air or waters of this state, the person may be required to obtain one or more permits from DNR. Among the environmental permits that DNR issues are storm water discharge permits.

Current law exempts the Department of Transportation (DOT) from obtaining certain navigable waters permits and certain environmental permits affecting waters of this state including storm water discharge permits. The exemptions apply to activities affecting waters of this state that are carried out under DOT's direction and supervision, such as the construction of a highway or bridge (transportation activity), and are subject to certain conditions. Under these conditions, DOT must accomplish the transportation activity in accordance with interdepartmental liaison procedures established by DOT and DNR for the purpose of minimizing the adverse environmental impact of the activity. DOT and DNR must also exchange information and cooperate in planning and carrying out DOT activities in order to alleviate potential detrimental encroachment on the waters of the state.

BILL

This bill requires DNR to issue a general permit that authorizes DOT to discharge storm water from the site of a transportation activity (transportation general permit). The bill provides that, instead of being exempt from any requirement to obtain a storm water discharge permit, DOT must obtain coverage under a transportation general permit required to be issued by DNR under this bill. The bill specifies that a transportation activity covered by a transportation general permit is subject to the interdepartmental liaison procedures that apply under current law to DOT transportation activities. The bill requires DNR to issue a transportation general permit on or before June 30, 2016, but DOT is not required to obtain coverage under that permit until DNR issues a transportation general permit as required under the bill.

INS ✓
Analysis → For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 30.2022 (1) ^X of the statutes, as affected by 2013 Wisconsin Act 80,
2 is renumbered 30.2022 (1m) and amended to read:

3 30.2022 (1m) ~~Activities~~ Transportation activities affecting waters of the state,
4 as defined in s. 281.01 (18), ~~that are carried out under the direction and supervision~~
5 ~~of the department of transportation in connection with highway, bridge, or other~~
6 ~~transportation project design, location, construction, reconstruction, maintenance,~~
7 ~~and repair~~ are not subject to the prohibitions or permit or approval requirements
8 specified under s. 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20, 59.692, 61.351,
9 61.353, 62.231, 62.233, or 87.30 or chs. 281 to 285 or 289 to 299. However, at the
10 earliest practical time prior to the commencement of these transportation activities,
11 the department of transportation shall notify the department of the location, nature,
12 and extent of the proposed work that may affect the waters of the state. This
13 subsection does not apply beginning on the date on which the department of natural
14 resources issues a general permit under s. 283.33 (4m) (b) 1.

15 **SECTION 2.** 30.2022 (1g) of the statutes is created to read:

BILL

1 30.2022 (1g) In this section, "transportation activity" means an activity carried
2 out under the direction and supervision of the department of transportation in
3 connection with highway, bridge, or other transportation project design, location,
4 construction, reconstruction, maintenance, or repair.

5 **SECTION 3.** 30.2022 (1p) of the statutes is created to read:

6 30.2022 (1p) Transportation activities affecting waters of the state, as defined
7 in s. 281.01 (18), are not subject to the prohibitions or permit or approval
8 requirements specified under s. 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20,
9 59.692, 61.351, 61.353, 62.231, 62.233, or 87.30; or under chs. 281 and 283, except
10 s. 283.33; or under chs. 285 or 289 to 299. However, at the earliest practical time prior
11 to the commencement of these transportation activities, the department of
12 transportation shall notify the department of the location, nature, and extent of the
13 proposed work that may affect the waters of the state. This subsection applies
14 beginning on the date on which the department of natural resources issues a general
15 permit under s. 283.33 (4m) (b) 1.

16 **SECTION 4.** 30.2022 (2) of the statutes is amended to read:

17 30.2022 (2) The ~~exemption~~ exemptions under sub. (1) ~~does (1m) or (1p) do not~~
18 apply unless the transportation activity is accomplished in accordance with
19 interdepartmental liaison procedures established by the department and the
20 department of transportation for the purpose of minimizing the adverse
21 environmental impact, if any, of the transportation activity. If the transportation
22 activity affects a wetland, as defined in s. 23.32 (1), the department of transportation
23 shall conduct any required mitigation either by complying with the
24 interdepartmental liaison procedures and any applicable interagency agreement on

BILL**SECTION 4**

1 mitigation banks that is approved by the department of natural resources or by using
2 any of the methods specified in s. 281.36 (3r) (a) 1. to 3.

3 **SECTION 5.** 30.2022 (3) of the statutes is amended to read:

4 30.2022 (3) If the department determines that there is reasonable cause to
5 believe that ~~an~~ a transportation activity being carried out under this section is not
6 in compliance with the environmental protection requirements developed through
7 interdepartmental liaison procedures, it shall notify the department of
8 transportation. If the secretary and the secretary of transportation are unable to
9 agree upon the methods or time schedules to be used to correct the alleged
10 noncompliance, the secretary, notwithstanding the exemption provided in this
11 section, may proceed with enforcement actions as the secretary deems appropriate.

12 **SECTION 6.** 30.2022 (4) of the statutes is amended to read:

13 30.2022 (4) The department of transportation and the department shall
14 exchange information and cooperate in the planning and carrying out of such
15 transportation activities in order to alleviate, to the extent practical under the
16 circumstances, any potential detrimental encroachment on the waters of the state.

17 **SECTION 7.** 30.2022 (6) of the statutes is amended to read:

18 30.2022 (6) This section does not apply to transportation activities in the Lower
19 Wisconsin State Riverway, as defined in s. 30.40 (15).

20 **SECTION 8.** 283.33 (4m) of the statutes is created to read:

21 283.33 (4m) TRANSPORTATION ACTIVITIES. (a) In this subsection, "transportation
22 activity" has the meaning given in s. 30.2022 (1g).

23 (b) 1. The department of natural resources shall issue a general permit under
24 this section on or before June 30, 2016, that authorizes the department of
25 transportation to discharge storm water from the site of a transportation activity.

✓
INS. →
4-19

BILL

1 A general permit issued under this paragraph is subject to the requirements for
2 general permits issued under s. 283.35.

3 2. The department of natural resources shall notify the legislative reference
4 bureau when it issues a general permit under subd. 1. The legislative reference
5 bureau shall publish the notice in the Wisconsin Administrative Register.

6 (c) Beginning on the date on which the department of natural resources issues
7 a general permit under par. (b) 1., the department of transportation may not
8 discharge storm water from the site of a transportation activity unless it is covered
9 by a general permit issued under par. (b) 1.

10 (d) A permit issued under this section shall incorporate the interdepartmental
11 liaison procedures established under s. 30.2022 (2) and the requirements specified
12 in rules promulgated under ss. 30.2022, 283.33, and 283.35.

13 (END)

INS. ✓
5-12 →



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1045/1

RNK:jld:jf

2013 BILL

INSERTS

1 AN ACT to repeal 283.19 (2) (b); to renumber 283.19 (2) (a); to renumber and
2 amend 283.01 (8) and 283.17 (2); to amend 283.19 (5) and 283.53 (2h); and to
3 create 283.01 (8) (b), 283.17 (2) (a), 283.17 (2) (b) and 283.17 (2) (c) of the
4 statutes; relating to performance standards and effluent limitations for new
5 and modified point sources of pollution, and termination of certain permits
6 authorizing discharges into waters of this state.

Relating
INSERT

Analysis by the Legislative Reference Bureau

Under current law, the Department of Natural Resources (DNR) must promulgate by rule effluent limitations for point sources of water pollution. An effluent limitation is a restriction on the quantity, rate, and concentration of a pollutant discharged from a point source into state waters. A point source is a discernible, confined, and discrete conveyance, such as a pipe, well, or concentrated animal feeding operation from which pollutants may be discharged into the waters of the state or into a publicly owned sewage system. DNR must also promulgate by rule standards of performance for new sources. A new source is a point source the construction of which commenced after the effective date of an applicable effluent limitation or standard of performance. Generally, DNR's rules must comply with and not exceed corresponding requirements established under federal law.

This bill revises the definition of a "new source." Under the bill, a new source is a point source constructed after the effective date of an applicable standard of

Analysis
Insert

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performance under federal law. The bill also provides that, if the federal Environmental Protection Agency proposes a standard of performance that has not yet taken effect, a point source is a new source under that proposed standard if the proposed standard becomes a final standard within a specified period of time.

END
Analysis
INSERT
Current law specifies the circumstance under which a point source of a discharge having a thermal component, when modified, is not subject to more stringent effluent limitations. This bill specifies that this exemption applies to modified point sources with respect to water quality based effluent limitations only. ✓

For further information see the ~~state and local~~ fiscal estimate, which will be printed as an appendix to this bill.

~~The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:~~

4-19
INSERT
1 SECTION 1. 283.01 (8) of the statutes is renumbered 283.01 (8) (a) and amended
2 to read:

3 283.01 (8) (a) "New source" means, except as provided in par. (b), any point
4 source the construction of which commenced after the effective date of applicable
5 effluent limitations or standards a standard of performance under 33 USC 1316 that
6 is applicable to the point source.

7 SECTION 2. 283.01 (8) (b) of the statutes is created to read:

8 283.01 (8) (b) If the federal environmental protection agency proposes a
9 standard of performance under 33 USC 1316 that is applicable to a point source and
10 if the standard of performance takes effect within 120 days of the publication of that
11 proposed standard of performance, "new source" means a point source the
12 construction of which commenced after the date of publication of that proposed
13 standard of performance.

14 SECTION 3. 283.17 (2) of the statutes is renumbered 283.17 (2) (intro.) and
15 amended to read:

16 283.17 (2) (intro.) Any If a point source of with a discharge having a thermal
17 component, ~~the modification of which is commenced after October 18, 1972, and~~

↓

NS 4-19
Cont**BILL**

1 ~~which, as modified, meets the most stringent effluent limitation established under~~
2 ~~s. 283.13 or sub. (1) and this subsection, where the limitation assures protection and~~
3 ~~propagation of a balanced indigenous population of shellfish, fish and wildlife in and~~
4 ~~on the water into which the discharge is made, modified, the point source shall not~~
5 be subject to any more stringent effluent limitation with respect to the thermal
6 component of its discharge during either the 10-year period beginning on the date
7 of completion of the modification or the period of depreciation or amortization of the
8 facility for the purpose of section 167 or 169 of the internal revenue code, whichever
9 ends first., if all of the following apply:

10 **SECTION 4.** 283.17 (2) (a) of the statutes is created to read:

11 283.17 (2) (a) The modification of the point source commenced after October
12 18, 1972.

13 **SECTION 5.** 283.17 (2) (b) of the statutes is created to read:

14 283.17 (2) (b) The point source, as modified, meets the most stringent effluent
15 limitation established under s. 283.13.

16 **SECTION 6.** 283.17 (2) (c) of the statutes is created to read:

17 283.17 (2) (c) The limitation under par. (b) assures protection and propagation
18 of a balanced indigenous population of shellfish, fish, and wildlife in and on the water
19 into which the discharge is made.

20 **SECTION 7.** 283.19 (2) (a) of the statutes is renumbered 283.19 (2).

21 **SECTION 8.** 283.19 (2) (b) of the statutes is repealed.

22 **SECTION 9.** 283.19 (5) of the statutes is amended to read:

23 283.19 (5) ~~After the effective date of any standard of performance promulgated~~
24 ~~by the department under this section, no~~ No owner or operator of any new source may

INS 4-19

LRB-1045/1

RNK:jld:jf

BILL

CONT

SECTION 9

END
4-19 INS. 1 operate such source in violation of any standard of performance applicable to such
2 a source. ✓

3 SECTION 10. 283.53 (2h) of the statutes is amended to read:

5-12
INSERT 4 283.53 (2h) The department may, with the consent of the permittee, ~~revoke~~
5 terminate a permit issued under s. 283.31 or 283.33 without following the procedures
6 in sub. (2) (b) to (f). ✓

7

(END) ✓

Barman, Mike

From: Bruhn, Michael L - DNR <Michael.Bruhn@wisconsin.gov>
Sent: Monday, February 17, 2014 2:32 PM
To: LRB.Legal
Subject: Draft Review: LRB -1042/5 Topic: Storm water discharge permit changes

Please Jacket LRB -1042/5 for the ASSEMBLY.

Kite, Robin

From: Bruhn, Michael L - DNR <Michael.Bruhn@wisconsin.gov>
Sent: Monday, February 17, 2014 7:27 PM
To: Kite, Robin
Cc: Landretti, Jane R - DNR; Bruhn, Michael L - DNR
Subject: RE: LRB 13-1042

Hey Robin,

I thought we were done, but I need a very small simple amendment for this draft and the Senate companion. I apologize!!

Dan Graff and Jane both found one issue that needs to be addressed. The word "general" should be struck from page 7, line 22.

Reason: It is established elsewhere in the draft that we will issue a general permit specific to DOT. Once we've done that, they must not discharge without permit coverage, rather than without general permit coverage. The change would clarify our agreement and the statutory requirement that it can be an individual permit if necessary.

Thank you in advance!!!

Michael Bruhn
Legislative Liaison
Wisconsin Department of Natural Resources
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Website: dnr.wi.gov
Find us on Facebook: www.facebook.com/WIDNR

From: Bruhn, Michael L - DNR
Sent: Monday, February 17, 2014 3:55 PM
To: Kite, Robin - LEGIS
Subject: RE: LRB 13-1042

Thanks!!

Michael Bruhn
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From: Kite, Robin [<mailto:Robin.Kite@legis.wisconsin.gov>]
Sent: Monday, February 17, 2014 3:54 PM
To: Bruhn, Michael L - DNR
Subject: RE: LRB 13-1042

Sure. I'll draft another version for you.

Robin

From: Bruhn, Michael L - DNR [<mailto:Michael.Bruhn@wisconsin.gov>]
Sent: Monday, February 17, 2014 2:33 PM
To: Kite, Robin
Subject: LRB 13-1042

Hi Robin,

I just released this draft for jacketing in the Assembly. Can I get a companion drafted for the Senate, please??

Thanks!!

Michael Bruhn
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